trict of Texas to recover the penalty of $1,000 prescribed by Section 10 of the Immigration Act of 1917, as amended (R. 4–8).

Upon the basis of its findings of fact the District Court concluded, as a matter of law, that the United States was not entitled to recover (R. 17) and entered a decree dismissing the libel (R. 18). The court based its decision upon the ground that Section 10 of the Immigration Act of 1917, as amended by the Act of 1924, did not apply to an alien "through passenger", citing, among others, the decision of this Court in *Taylor* v. *United States,* 207 U. S. 120, and the decision of the Circuit Court of Appeals for the Second Circuit in *The Habana,* 63 F. (2d) 812.

Upon an appeal by the United States (R. 20–26), the Circuit Court of Appeals for the Fifth Circuit reversed the decree of the District Court and remanded the case with instructions to enter a decree in favor of the United States (R. 32–36). That court held that the *Taylor* case, which was a criminal case involving a deserting alien seaman, did not apply because of certain language appearing in the present statute which was not contained in the earlier statute there construed (R. 34–35). The court conceded, however, that its ruling was directly contrary to the decision of the Circuit Court of Appeals for the Second Circuit in *The Habana.* The other decisions relied upon by the District Court were held not to be in point (R. 36).

DISCUSSION

1. The contention of the petitioner that Section 10 of the Immigration Act of 1917, as amended by the Immigration Act of 1924 (*supra,* pp. 2–3), does not authorize the issuance of a detention order to prohibit entirely the entrance or landing of a through passenger and merely makes provision for securing the proper landing of aliens by compelling transportation agencies to present them only at designated times and places seems to be clearly without merit.

The section provides that it shall be the duty of the owner, master, officers, and agents of the vessel "to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers." Without exhausting the possibilities of argument, it seems to us that the plain meaning of the language is that unless and until a time and place are designated by the immigration officers, the duty is on the representatives of the vessel to prevent the landing of an alien passenger. The language cannot mean that in the case of every alien brought to the United States on a vessel the immigration authorities must designate a time and place for him to land, for that would be giving the provision a controlling effect over other provisions of the immigration laws commanding the exclusion of certain classes of aliens and over Section 15 of the Immigration Act of 1917 (39 Stat. 885, U. S. C., Title 8, Sec. 151), under which the immigration officers are

given the discretion either to require arriving aliens to be removed from the vessel to land stations for inspection or to inspect them upon the ship. If the section in question applies to alien "through passengers", the regulation of the Secretary of Labor, pursuant to which the detention order in this case was issued, is, we submit, not inconsistent with the statute.

This point was not specifically discussed in the opinion below in the form in which it is here presented by the petitioner.

2. With respect, however, to the question whether the section involved applies to alien "through passengers", it must be conceded, as was stated by the Circuit Court of Appeals (R. 36), that the decision below is in direct conflict with that of the Circuit Court of Appeals for the Second Circuit in *The Habana,* 63 F. (2d) 812, *supra.* For this reason, and because of the importance of the question in the proper administration of the immigration laws, we do not oppose the issuance of a writ of certiorari.

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